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09/870,388	05/29/2001	Carl J. G. Evertsz	739-X01-004	7491

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT PAPER NUMBER

3626

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/870,388	Applicant(s) EVERTSZ, CARL J. G.	
	Examiner Mike Tomaszewski	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the application filed on 7/13/06. Claims 1-23 have been cancelled. Claims 24-39 are newly added. Claims 24-39 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) New claim 28 erroneously depends from cancelled claim 23 and therefore, is unclear and indefinite. New claim 29 depends from new claim 28 and therefore, is unclear and indefinite as well. Examiner has examined the claims with the assumption that Applicant intended new claim 28 to depend from new claim 24.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24, 26-29, 31, 34-37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shile (6,669,482; hereinafter Shile), in view of Buckley et al. (6,551,107; hereinafter Buckley).

(A) As per new claim 24, Shile discloses a computer system for in-service monitoring of a user screening medical cases comprising:

- (1) a case stack of real cases to be reviewed by a user (Shile: col. 5, lines 60-64);
- (2) a library of known cases (Shile: col. 5, lines 60-64);
- (3) a user interface component for requesting a consecutive case, for display of the consecutive case, and for entering a diagnosis of the consecutive case (Shile: col. 8, lines 39-41);

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- (4) a program component for receiving a request for a consecutive case from the user interface, the program component selecting the consecutive case from the case stack of real cases or the library of known case for the display and the diagnosis (Shile: col. 8, lines 39-41; Examiner considers a graphical user interface (GUI) to read on "program component."); and
- (5) a feedback component for outputting a message to the user (Shile: col. 9, lines 50-51)

Shile, however, fails to *expressly* disclose a computer system for screening of medical cases comprising:

- (6) outputting a message to the user if the user diagnosis of the known case is incorrect.

Nevertheless, this feature is old and well known in the art, as evidenced by Buckley. In particular, Buckley discloses a computer system for screening of medical cases comprising:

- (6) outputting a message to the user if the user diagnosis of the known case is incorrect (Buckley: col. 7, lines 20-22).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Buckley with the teachings of Shile with the motivation of providing an interactive educational environment (Buckley: col. 3, lines 1-2).

(B) As per new claim 26, Shile discloses a computer system as set forth in claim 24 further comprising a session preparation component for initializing the case stack and for specifying an absolute number or a percentage of known cases to be selected by the program component during the screening of the case stack by the user (Shile: col. 5, lines 2-7, 53-54 and 66-67; col. 6, lines 53-67; col. 7, lines 1-54).

Examiner notes that Shile teaches the creation of various data sets of known cases. As such, the capability of creating (i.e., specifying) a particular number of known cases to be selected during screening of cases is obvious.

(C) As per new claim 27, Shile discloses a computer system as set forth in claim 26 wherein the session preparation component enables specifying a category for the known cases (Shile: col. 5, lines 53-54 and lines 66-67; col. 6, lines 53-67; col. 7, lines 1-54).

Examiner notes that Shile teaches one to create (i.e., specify) various data sets (i.e., categories) of known cases to be used for radiologic training.

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(D) As per new claim 28, Shile discloses a computer system as set forth in claim 24 further comprising a user action component for tracing of user input actions and of the feedback component (Shile: col. 8, lines 59-61; col. 9, lines 23-25).

(E) As per new claim 29, Shile Fails to *expressly* disclose a computer system as set forth in claim 28 further comprising a user action report generation component being coupled to the user action component for generating a user action report for the purposes of quality monitoring and assurance.

Nevertheless, this feature is old and well known in the art, as evidenced by Buckley. In particular, Buckley discloses a computer system as set forth in claim 28 further comprising a user action report generation component being coupled to the user action component for generating a user action report for the purposes of quality monitoring and assurance (Buckley: col. 4, lines 30-33; col. 14, lines 63-67; col. 15-10).

One of ordinary skill would have found it obvious at the time of the invention to include the teaching of Buckley with the teachings of Shile with the motivation of providing an interactive educational environment (Buckley: col. 3, lines 1-2).

(F) New claim 31 substantially repeats the same limitations of new claim 24 and therefore, is rejected for the same reasons given for new claim 24 and incorporated herein.

(G) New claims 34-37 substantially repeat the same limitations of new claims 26-29 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

(H) New claim 39 substantially repeats the same limitations of new claim 24 and therefore, is rejected for the same reasons given for new claim 24 and incorporated herein.

6. Claims 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shile, in view of Nishikawa et al. (6,058,322; hereinafter Nishikawa).

(A) As per new claim 25, Shile fails to *expressly* disclose a computer system as set forth in claim 24 further comprising a pseudo-random component for generation of a pseudo-random number, the program component being coupled to the pseudo-random component for determining the selection of the consecutive case from the case stack of real cases or the library of known cases based on the output of the pseudo-random component.

Nevertheless, this feature is old and well known in the art, as evidenced by Nishikawa. In particular, Nishikawa discloses a computer system as set forth in claim 24 further comprising a pseudo-random component for generation of a pseudo-random number, the program component being coupled to the pseudo-random component for

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determining the selection of the consecutive case from the case stack of real cases or the library of known cases based on the output of the pseudo-random component (Nishikawa: col. 22, lines 20-22).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings Nishikawa with the combined teachings of Shile and Buckley with the motivation of providing an automated method and system for displaying medical images (Nishikawa: col. 4, lines 41-46).

Examiner also notes that Shile teaches one to randomly arrange the order of exams (i.e., cases) (See Shile: col. 8, lines 44-45).

(B) New claim 32 substantially repeats the same limitations of new claim 25, and therefore, is rejected for the same reason given for claim 25 and incorporated herein.

7. Claims 30, 33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shile, in view of Leiper (6,128,002; hereinafter Leiper).

(A) As per new claim 30, Shile discloses a computer system as set forth in claim 24 further comprising a mode selection component for selecting a random mode (Shile: col. 8, lines 44-45).

Shile, however, fails to *expressly* disclose the computer system of claim 24 further comprising a fixed mode.

Nevertheless, this feature is old and well known in the art, as evidenced by Leiper. In particular Leiper discloses a computer system as set forth in claim 24 further comprising a fixed mode (Leiper: col. 1, lines 35-37) for the operation of the program component.

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Leiper with the combined teachings of Shile and Buckley with the motivation of providing an apparatus and method for navigation of electronic images and documents that increases the diagnosing physician's efficiency in using the system (Leiper: col. 2, lines 28-32).

(B) New claims 33 and 38 substantially repeat the same limitations of new claim 30, and therefore, are rejected for the same reason given for new claim 30 and incorporated herein.

Response to Arguments

8. Applicant's arguments filed 7/13/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 7/13/06.

(A) On page 7 of the 7/13/06 response, Applicant argues that Shile's use of exam images with unknown results is explicitly taught against, and would in fact defeat the

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purpose of training, namely, in providing feedback on the interpreter's diagnostic results and use of feature descriptors. Applicant argues further that Shile fails to disclose, suggest, or provide motivation that the method can be used for in-service monitoring of an interpreter during the viewing of cases with unknown results (i.e., real cases that have yet to be diagnosed).

In response, Examiner respectfully disagrees and submits that contrary to Applicant's assertions, Shile does teach the use of known results and unknown results. For example, Shile states, "For a practicing radiologist or other interpreter, these can be mammograms interpreted in the course of their practice..." and "Alternatively, mammographic test sets can be created to be read by an interpreter" (Shile: col. 5, lines 60-67). As such, Examiner considers Shile to teach that either *known results* (i.e., created test sets) or *unknown results* (i.e., real cases yet to be diagnosed in the course of a practice) may be used for training purposes.

(B) On page 8 of the 7/13/06 response, Applicant argues, "Shile fails to disclose, or provide motivation for inserting known cases into a case stack of real cases to monitor a user."

In response, Examiner respectfully submits that Shile discloses inserting known cases into a case stack of real cases to monitor a user and also provides motivation for inserting known cases into a case stack of real cases to monitor a user. As previously mentioned in section 8. (A), *supra*, Shile discloses inserting known cases into a case

stack. As per providing motivation, Shile's motivation for inserting known cases into a case stack is training (Shile: abstract).

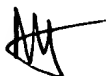
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT



Carolyn Bleck
Patent Examiner